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10 **IN THE UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 WINNER'S SUN PLASTIC &
13 ELECTRONIC (SHENZHEN) CO.
14 LTD., a Chinese Limited Company.

15 Plaintiff,

16 vs.

17 THE PARTNERSHIPS and
18 UNINCORPORATED ASSOCIATIONS
19 IDENTIFIED ON SCHEDULE "B"

20 Defendants.

Case No. 2:19-cv-00980-RFB-DJA

***EX PARTE* MOTION REQUESTING
AN EXTENSION OF TIME UNDER
FRCP 4.**

21 Plaintiff WINNER'S SUN PLASTIC & ELECTRONIC (SHENZHEN) CO. LTD., by and
22 through its undersigned counsel, Bayramoglu Law Offices, LLC, hereby files its *Ex Parte* Motion
23 Requesting an Extension of Time under Federal Rules of Civil Procedure 4. Plaintiff bases this
24 argument on all pleadings and papers filed therein, the following points and authorities, and any
25 oral argument at the time of hearing.

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BACKGROUND

This case was filed on June 9, 2019 to combat online counterfeiters and infringers who have and continue to infringe upon the patented technology regarding United States Patent Number 9,995,993 (the “993” patent) and Winner’s trade dress by and/or offering to sell unauthorized and unlicensed products, including but not limited to mobile devices to take photographs (“Selfie Sticks”).

On information and belief, the Defendants in this matter create Internet Stores to sell their products. The Defendants Internet Stores share unique identifiers, such as their usernames, and suggest that the products sold are inexpensive and free from infringement of any kind. We also believe that most, if not all of the Defendants in this action reside in China. Because of their location and the fact that it may be close to impossible to actually serve the complaint on our Defendants, on the August 13, 2019, we filed a Motion for Alternative Service (ECF No. 07) in order to serve all of the Defendants through an email address. On August 14, 2019, Judge Albregts granted our Order for Alternative Service for Defendants (ECF No. 08).

In order to obtain the email addresses from eBay and Amazon, on September 23, 2019, we filed an *Ex Parte* Motion for Expedited Discovery (ECF No. 13). The court granted our order on September 27, 2019

As Plaintiffs, we have done and continue to do our due diligence in this matter in our attempt to serve Defendants in a timely matter. We served Amazon and eBay with discovery requests in October. We received the requested information regarding defendants’ names and email addresses from eBay. However we have not heard back from Amazon. We have contacted Amazon requesting names and addresses of vendors that sell infringing products but to no avail. We recently found out, though, that Amazon’s counsel responsible to responding to the discovery requests is on maternity leave. Prior to learning this, Plaintiff’s counsel has also been on paternity leave, therefore we ask the court to take into consideration the unusual circumstances of this case

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1 and counsel and grant our request to extend the time to serve the Complaint by 30 days. The
 2 Plaintiff is unable to serve the Defendants until Amazon provides the name and email addresses
 3 of the Defendants.

4 In order for this case to move forward and do our best for our Client, we respectfully
 5 request that our *Ex Parte* Motion Requesting an Extension of Time under Federal Rule of Civil
 6 Procedure 4, be granted so we may move forward in this case.

7 POINTS AND AUTHORITIES

8 Federal Rules of Civil Procedure 4(m) outlines the procedure for a court dismissing an
 9 action for failure to effectuate service of process:

10
 11 If a defendant is not served within 90 days after the
 12 complaint is filed, the court--on motion or on its own after notice to
 13 the plaintiff--must dismiss the action without prejudice against that
 14 defendant or order that service be made within a specified time. But
 15 if the plaintiff shows good cause for the failure, the court must
 16 extend the time for service for an appropriate period. This
 17 subdivision (m) does not apply to service in a foreign country under
 18 Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule
 19 71.1(d)(3)(A).

20 Federal Rule of Civil Procedure 4(m).

21 “Rule 4(m), as amended in 1993, requires a district court to grant an extension of time
 22 when the plaintiff shows good cause for the delay ... [a]dditionally, the rule permits the district
 23 court to grant an extension even in the absence of good cause.” *Efaw v. Williams*, 473 F.3d 1038,
 24 1040 (9th Cir. 2007).

25 The Court, in its August 14, 2019 Order Granting Plaintiff’s Motion for Alternative
 Service, recognized that “Defendants are likely located in China.” Further, in recognition of this
 fact, the Court applied Federal Rules of Civil Procedure 4(f), which governs service in a foreign

country. By Federal Rule of Civil Procedure 4(m)'s plain language, it is inapplicable to this situation, where Plaintiff is attempting to serve foreign defendants.

Further, the Defendants are anonymous, and Plaintiff recently filed a motion for expedited discovery to ascertain the e-mail addresses associated with the Defendant's accounts on Amazon.com and eBay.com for the purpose of effectuating service. As outlined above, we have not yet received any information from Amazon.com regarding this case. Consequently, good cause exists for this Court to continue this case and not dismiss it under Federal Rule of Civil Procedure 4(m).

CONCLUSION

Based on the foregoing, Plaintiff requests the court to grant an extension of time of 30 days to effectuate service on Defendants under Federal Rule of Civil Procedure 4.

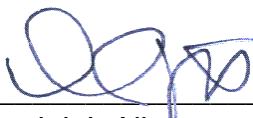
Dated this 20th day of December, 2019

BAYRAMOGLU LAW OFFICES LLC.

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IT IS SO ORDERED.

Dated: December 30, 2019



Daniel J. Albregts
United States Magistrate Judge

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